**THE HON'BLE SRI JUSTICE A.GOPAL REDDY**

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**WRIT PETITION No.3332 of 2005**

**DATED: 18-04-2006**

Between:

B.Trimurthy Rao . . .Petitioner

And

The Deputy Registrar-Officer on

Special Duty District Coop.Central Bank,

Kakinada, and another . . .Respondents

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**O R D E R:**

By means of filing this writ petition under Article 226 of the Constitution of India, the petitioner invoked the certiorari jurisdiction of this Court for calling the records on the file of the first respondent in CEP.No.3906/2003-04, dated 08-02-2005, whereunder Notice in Form No. IX under Rule 52(10)(e) of the Andhra Pradesh Cooperative Societies Act, 1964 (for short "the Act") was issued for auctioning the properties of the petitioner for due recovery of the loan amount with interest as per the decree/award passed in proceedings No.210/2003-04 under Section 71(1) of the Act.

The petitioner in paragraph No.5 of the affidavit filed along with the writ petition, alleged that all of a sudden, he received a demand notice, dated 10-02-2004, from the first respondent on 05-02-2005, in which, it is stated that a decree was passed against him under Section 71(1) of the Act and that he has to pay an amount of Rs.3,07,420/- within ten days from the date of receipt of the said notice. Thereupon, he rushed to the second respondent and requested to furnish the particulars of the decree, but the second respondent expressed inability to furnish the same. While the matter stood thus, the impugned sale notice was issued.

Further in paragraph No.6, it is clearly stated that no notice was served on him before passing a decree under Section 71(1) of the Act and any decree said to have been passed against him is without giving any opportunity and behind his back, for which, he reserves his right.

Learned counsel for the first respondent produced the records, which clearly show that on initiation of proceedings by the Cooperative Sub-Registrar, Kakinada, in Case No.210/2003-04, the petitioner was served with a notice, dated 14-08-2003, calling upon him to show as to why a certificate should not be issued under Section 71(1) of the Act, failing which, it would be determined *ex parte* and necessary orders would be passed. The said notice was sent to the petitioner by a registered post with acknowledgment due. It was despatched under Serial No.1977, dated 09-08-2003, and was served on the petitioner on
13-08-2003. After service of such notice only, necessary certificate was issued for due recovery of the disputed amount.

The records produced by the learned counsel for the first respondent clearly show that the petitioner falsely stated that he was not served with any notice prior to passing of a decree under Section 71(1) of the Act, and therefore, the award/decree could not be executed.

It is a settled law that a person, who seeks relief by invoking extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, should state true facts and if such facts are false, he is not entitled to any relief.

Since the petitioner falsely alleged that he was not served with any notice before passing the award/decree, he is not entitled to any relief. In view of the same, the writ petition is liable to be dismissed.

The writ petition is accordingly dismissed. However, the petitioner is at liberty to challenge the decree/award issued under Section 71(1) of the Act before any appropriate forum. There shall be no order as to costs.

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(A.GOPAL REDDY, J)

18th APRIL, 2006.

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